

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO. 3864 OF 2022

1. Haya Hanif Kadawala
2. Faiz Hanif Kadawala
3. Ibrahim Danish Ashraff Butt
4. Fahad Hanif Kadawala
5. Gulprith Singh Pola Singh Dhanowa
6. Mr. Akash Bharadwaj ... Petitioners

Versus

1. State of Maharashtra
2. Ms. Anju Vikramchandra Soni ... Respondents

Mr. Burzin Bharucha a/w Mr. Sanjay Rego i/by White and Brief Advocates for the Petitioner.

Mr. Harshwardhan Salgaonkar a/w Mr. Raj Dani i/by Thodur Law Associates for the Respondent No.2.

Mr. K. V. Saste, APP for the Respondent No.1-State.for the Respondent No.1-State.

***CORAM: REVATI MOHITE DERE &
R. N. LADDHA, JJ.***

DATE : 18th NOVEMBER, 2022

P.C. :-

. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties and the petition is taken up for final disposal. Learned

APP waives notice on behalf of the respondent no.1-State. Mr.Salgaonkar, learned counsel waives notice on behalf of the respondent no.2.

3. By this petition, the petitioners seek quashing of the FIR registered vide C.R. No. 1018 of 2022 with the Khar Police Station, Mumbai, for the alleged offences punishable under Sections 143, 147, 149, 323, 354, 365, 392, 504, 506 and 509 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The incident in question, is stated to have taken place on 23rd July, 2022. According to the respondent no.2, she alongwith her cousin Piyush Soni has gone out for dinner and had parked their scooter in the parking area. She has alleged that at around 12:30 a.m., when they were coming out from the restaurant on the way to the parking area, they saw the petitioner no.1 in her car, driving back and forth. The respondent no.2 has alleged that the petitioner no.1's car dashed her scooter,

which was already parked, pursuant to which, there was a heated argument between the parties. Pursuant thereto, the respondent no.2 lodged the aforesaid FIR as against the petitioners. With respect to the said incident dated 23rd July, 2022, the petitioner no.1 had also lodged a cross FIR, which was registered vide C.R. No. 1110 of 2022 as against the respondent no.2 and one another person, alleging offences punishable under Sections 325, 354, 509, 506, 427, 504 read with 34 of the Indian Penal Code.

5. During the pendency of the aforesaid FIRs, the parties have amicably settled their dispute i.e. the parties in both the CRs. Parties have entered into a Memorandum of Settlement dated 20th September, 2022. The said Memorandum of Settlement entered into between the parties is at Exhibit 'B' at page 20 of the petition. The said Memorandum of Settlement has been signed by the accused as well as the complainant in both the CRs. Both the parties have agreed to withdraw allegations as against each other and have agreed to give their no objection to the quashing of the case, initiated by one against the other. By a separate order passed

today, in Criminal Writ Petition No. 3750 of 2022, we have quashed the proceeding initiated by the petitioner no.1 as against the respondent no.2 and one Mr. Priyash P. Jadega.

6. Learned counsel for the respondent no.2 - Ms. Anju Vikramchandra Soni has tendered an affidavit in reply of the respondent no.2 dated 18th November, 2022, duly affirmed before the Notary. To the said affidavit is annexed a photocopy of the Aadhar Card of the respondent no.2 duly attested by her. Learned counsel for the respondent no.2 has identified the respondent no.2 and learned APP has verified the original Aadhar Card. The said affidavit is taken on record. In the said affidavit, the respondent no.2 has stated that the dispute has been amicably settled between the parties and a Memorandum of Settlement has been entered into between the parties and that she has no objection for quashing of the FIR. The respondent no.2 is present in person. On questioning, she reiterates what is stated by her in the said affidavit.

7. As far as allegation of Section 365 and 392 are concerned,

we are *prima-facie* of the opinion that both the said sections will not apply in the facts of the present case. As far as Section 354 is concerned, it is alleged by the respondent no.2 that she was abused in a vulgar language by the petitioners. It is not in dispute that the parties have amicably settled their dispute.

8. Considering the nature of dispute, the manner in which the alleged incident has taken place, the fact that none sustained any injuries, the amicable settlement between the parties, the affidavit of the respondent no.2 and the judicial pronouncements in this regard, there is no impediment in allowing the petition.

9. The petition is accordingly allowed and the FIR registered vide C.R. No.1018 of 2022 with the Khar Police Station, Mumbai, at the behest of respondent no.2 is quashed and set aside.

10. Each of the petitioners to deposit the costs of Rs.5,000/- with the **Mumbai Police Welfare Fund bearing Account No. 465010100008693, IFSC No. UTIB0000465**, within three weeks

from today.

11. Rule is made absolute on the aforesaid terms i.e. subject to the petitioners depositing the costs as stated aforesaid within three weeks. The petition is disposed of accordingly.

12. Matter to be placed for recording compliance of the said order of deposit on **28th December, 2022.**

13. All concerned to act on the authenticated copy of this order.

R. N. LADDHA, J.

REVATI MOHITE DERE, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by
BIPIN
DHARMENDER
PRITHIANI
Date: 2022.11.23
15:03:42 +0530